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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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09/17/80 09/17/80 J. S. BUEHNER

EXAMINER

029086 HMD2/1117
MC DONNELL BUEHNER HUGHES BOEING
ONE SOUTH WACKER DRIVE
CHICAGO IL 60606

ART UNIT	PAPER NUMBER
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DATE MAILED:

11/17/80

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☐ Responsive to communication(s) filed on 3-3-80

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-3 is/are rejected.
☒ Claim(s) 4-17 is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
☐ Interview Summary, PTO-413
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

The request for the extension of time and response dated 10-3-00 are acknowledged.

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 4-17 are objected to under 37 CFR 1.75© as being in improper form because a multiple dependent claim cannot dependent from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 4-17 have not been further treated on the merits.

Claim Rejections - 35 U.S.C. § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for sucrose fatty acid esters, does not reasonably provide enablement for derivatives of pentose, hexose and oligomers thereof or non-ionic

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surfactant. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. Instant claims are drawn to a specific product 'reverse vesicles' and instant specification does not adequately teach as to what compounds come under this category and have the function, i.e., formation of reverse micelle claimed. One skilled in the art will not be able to select proper compound and practice the invention without undue experimentation. Broad claims must have broad support in the specification; in the absence of such support, claims must be limited to sucrose fatty acids.

Claim Rejections - 35 U.S.C. § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 521 562 in view of EP 0678 295, EP 0159237, GB 2002319 by themselves or in combination.

EP 0521 562 teaches instant reverse vesicles containing sucrose fatty acid esters (note the abstract, Examples and claims). What this reference lacks is the teachings of dehydration of these vesicles to obtain a powder.



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EP 0678 295 teaches that vesicular preparations can be lyophilized to form powders (note pages 14, 15 and examples 34 and 35).

EP 0159237 teaches that emulsions (micelles) can be freeze-dried to form powders which are easier to handle than emulsions (note the abstract).

GB teaches that dehydration of lipid vesicles (liposomes) to prepare a stable powder which can be stored for longer periods of time (note the abstract).

The removal of solvent from the vesicles of EP 562 to form powders would have been obvious to one of ordinary skill in the art since EP 562, EP 237 and GB each teach that vesicular preparations can be dehydrated and because of the advantages of powders compared to liquids taught by EP 237 and GB; one skilled in the art would be motivated to dehydrate the vesicles of EP 562 with the expectation of obtaining similar powders.

7. This is a CPA of applicant's earlier Application No. 09/155,605. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, THIS ACTION IS MADE FINAL even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within



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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *G.S. Kishore* whose telephone number is (703) 308-2440.

The examiner can normally be reached on Monday-Thursday from 6:30 A.M. to 4:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, T.K. Page, can be reached on (703)308-2927. The fax phone number for this Group is (703)305-3592.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [thurman.page@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility

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that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1235.



Gollamudi S. Kishore, Ph. D

Primary Examiner

Group 1600

gsk

November 15, 2000